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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifth session

SUMMARY RECORD OF THE 108th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 12 January 1994, at 3 p.m.

Chairperson: Mrs. BADRAN

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The meeting was called to order at 3.20 p.m.

SYSTEM OF DOCUMENTATION AND INFORMATION (agenda item 6)

QUESTION OF INDICATORS (agenda item 7)

1 The CHAIRPERSON said that the Committee would need to consider ways of coordinating projects, such as those of the United Nations Children's Fund (UNICEF) and certain non-governmental organizations (NGOs) and universities, on the important questions of a documentation and information system and indicators. She invited the members of the Committee to put forward proposals.

2. Mr. HAMMARBERG recalled that a working group comprising Mrs. Eufemio, Miss Mason, Mr. Mombeshora, Mrs. Santos País and himself had been asked by the Committee to examine items 6 and 7 of the agenda. Item 6 related to a broad spectrum of questions ranging from the computerization of data to possible links between a database yet to be created at the Centre for Human Rights and databases in other organs of the United Nations system. The Committee needed to specify the type of information it required and where such information might be found.

3. The term "indicators" covered not only basic statistical data, but also information which the Committee required from States parties to help it ascertain how far they were applying the provisions of the Convention.

4. In that connection, it was appropriate to mention that the Oslo-based organization Child Watch International had undertaken to prepare just such a draft document which, when finished, would be very useful to the Committee. Similarly, the report on the work of the Seminar on appropriate indicators held in January 1993 (document A/CONF.157/PC/73) with the participation of Committee members was of great interest. Furthermore, two NGOs, Rädda Barnen and the United Kingdom section of Save the Children, were preparing a report on the question of indicators.

5. A report published in 1990 under the direction of Mr. Alston specified the data which treaty bodies wished to have included in a database, namely, the relevant treaties, summary records, decisions and concluding observations and the reports produced by various committees, as well as pertinent information available to institutions within the United Nations system. The time had come to update that important document.

6. UNICEF, for its part, was currently creating a vast database on the child to which members of the Committee would have access.

7. Lastly, the Committee would need to include in its own guidelines the list of indicators which States parties ought to cite in their reports.

8. Mrs. SANTOS PAIS said that in its report on the work of its fifth session, the Committee would have to indicate any conclusions it reached regarding the system of documentation and the question of indicators, since those were vital issues.

9. She recalled that, at one of their meetings, the Chairpersons of the treaty bodies had decided to keep each other informed of any decisions taken during the sessions of their respective bodies.

10. Furthermore, the need to create a centre for documentation on the rights of the child as part of the Centre for Human Rights was becoming increasingly urgent. It would also be appropriate to strengthen cooperation between all bodies concerned with children with a view to ensuring that each body was kept informed of the work done by the others.

11. Lastly, she recalled that the Commission on Human Rights had adopted a major resolution on indicators which could be used to assess progress in implementing international instruments in different countries. In the same resolution, the Commission had requested the Secretary-General to formulate guidelines relating to structural adjustment policies which might serve as the basis for a dialogue between the human rights bodies and the international financial institutions.

12. The CHAIRPERSON noted that indicators could be qualitative as well as quantitative. It was for the Committee itself to define clearly its own information requirements so that bodies which so wished could help meet those demands.

13. In addition, the Committee would have to try to make use of the indicators already developed by other bodies. Lastly, the Committee would have to find ways of gauging the strength of the links which existed between different rights. It would thus have to identify indicators showing how far the two major general principles of non-discrimination and the best interests of the child were respected when it came to applying the provisions of the Convention.

14. Mrs. SARDENBERG said that the system of training and the indicators used had to be seen as tools which could be used in assessing how far the Convention was being applied, rather than as ends in themselves. She wished to know exactly what form cooperation between the Committee and the other bodies concerned would take and what the Committee's role would be. In addition, States would need to be informed rapidly of any decisions taken by the Committee in that respect to enable them to include the required information in their reports. Advisory services could assist them in that task. Lastly, the Committee should not neglect any means other than indicators which might help it to assess how far particular rights were applied, especially in very complex situations.

15. Mr. HAMMARBERG agreed with Mrs. Badran that the Committee needed to define its requirements clearly so that those bodies wishing to do so could respond appropriately. That had been the course taken by the Committee's Working Group during the consultative meeting which had taken place on 9 October 1993 with the participation of UNICEF.

16. He also took the view that qualitative data, like statistical data, could be used as indicators of the extent to which the Convention was being implemented. In any case, the Committee would need to constantly refine its methods of evaluation.

17. Mrs. VINET (World Health Organization) said that WHO was in a position to provide the Committee with data on health. The Committee would therefore not need to obtain such data from the countries concerned. In addition, WHO, working with the Committee on Economic, Social and Cultural Rights, had established indicators which could be used in assessing the progress made in realizing the right to health and might be useful to the Committee. The choice of indicators would depend on the reporting guidelines issued to States parties. Depending on its concluding observations on the situation in a country, the Committee would draw up recommendations which would determine the type of indicators to be used in drafting reports.

18. Mrs. BELEMBAOGO pointed out that, at a time when computerized systems were being set up, it should not be forgotten that the Committee had to work above all with Governments. United Nations bodies should assist States parties in providing more precise information by making available indicators which allowed a more accurate assessment of the extent to which the Convention was applied. That was because the information provided by Governments did not always accord with that from other sources, since Governments did not always have the resources needed to set up a reliable information-gathering system of the kind to which the Committee would have indirect access.

19. Mgr. BAMBAREN GASTELUMENDI noted that there were wide disparities between reports submitted by different countries. Indicators provided by United Nations bodies and NGOs were reliable and should make it possible to monitor the situation in those countries during the next five years and thereby maintain the existing links between those countries and the Committee. Lastly, the Committee should consider ways of obtaining information on countries experiencing emergencies such as those currently existing in the Mexican State of Chiapas or in the former Yugoslavia, where it was even more difficult to assess the application of the Convention. He suggested that, in such cases, one or more Committee members should visit the area concerned.

METHODS OF WORK OF THE COMMITTEE (agenda item 6)

20. The CHAIRPERSON, referring to the document prepared by Mr. Hammarberg on guidelines for the drafting of initial reports, suggested that the Committee should examine the document in question with a view to improving its own methods of work and drawing up new guidelines. She hoped that working groups would be formed within the Committee based on members' particular expertise (sociology, economics, law, etc.), and that each group would work with a specialized organization. For example, Mr. Mombeshora, who was a doctor, could work with WHO. The Committee, which worked in collaboration with various United Nations bodies, universities, treaty-monitoring bodies and institutes, needed to define its requirements and expectations.

21. Mrs. SANTOS PAIS agreed with the Chairperson and emphasized the need to improve the follow-up to information aimed at helping Governments to improve their reports and their policies. That information also needed to be passed on to the public to make known the Committee's work and objectives. Returning to the question of working groups, she stressed that dialogue between the groups was vitally important. Without such an exchange between different disciplines, there was a danger of subjectivity in the Committee's stance with regard to the issues to be considered.

22. Mrs. EUFEMIO suggested that members should compare their respective views during the pre-sessional meetings.

23. Mrs. BELEMBAOGO recalled that, at previous meetings, the Committee had agreed that a working group should be responsible for reviewing the general guidelines for drafting initial reports. In her opinion, the paper submitted by Mr. Hammarberg should be elaborated upon and could serve as a working paper. In order to leave sufficient time, the working group would need to meet at the beginning of the next session. The guidelines drawn up by the Committee for periodic reports would have to be different from those applicable to initial reports, since the information required by the Committee in the two cases was different.

24. Mrs. SANTOS PAIS agreed, and hoped that draft guidelines would be submitted by the end of the year, allowing the Committee to discuss them in January 1995. That task, which could be included in the agenda under the item "Methods of work of the Committee" would have to be given priority.

25. Mr. HAMMARBERG acknowledged that the Committee's initial decision concerning guidelines had not been clear. The Committee members had agreed that the guidelines should be reviewed, but two schools of thought had emerged: some members had been reluctant to rewrite the guidelines, preferring instead to amplify them with commentaries which would include the list of issues to be considered, while others had wished to revise them. There had been some confusion on the latter point, since some members of the Committee had thought that it was the guidelines for periodic reports that were to be amended, while those who were to have performed the task had thought that the guidelines on initial reports were to be modified. In his opinion, it was too late to review the guidelines in time for the next initial reports and the Committee should agree as soon as possible on the commentaries on the existing guidelines and send them immediately to the many Governments now in the process of drafting their reports. For initial reports due in 1997, new guidelines would be required and consideration needed to be given to the type of reports the Committee wished to have: were they to be comprehensive or deal with specific issues? Consideration also needed to be given to ways of linking the guidelines with the concluding observations and decisions had to be taken concerning the policy or principles to be followed; that should start at the very beginning of the following year, in order to take advantage of the experience of those members of the Committee whose mandate was due to end at the end of 1995.

26. He suggested that Miss Mason, Mr. Kolosov and Mrs. Eufemio should give thought to the question of what guidelines should be adopted for periodic reports, and that all members of the Committee should discuss at the current session the commentaries to be formulated on those guidelines, so that agreement could be reached on a text to be sent to Governments.

27. The CHAIRPERSON, summing up, said that the question to be decided was whether the Committee ought to begin by considering whether the guidelines on the preparation of initial reports ought to be supplemented by commentaries,

or whether they ought to be modified. In her view, the Committee could begin by considering the document submitted by Mr. Hammarberg, which contained the guidelines and commentaries on them. That could be the first stage in a lengthy revision process.

28. Mr. KOLOSOV said that, after reading the document submitted by Mr. Hammarberg, he did not think that the Committee should formulate new guidelines for the preparation of initial reports. As far as the document itself was concerned, he did not share Mr. Hammarberg's view that the procedure should be simplified by asking States parties to submit a single core document to all the human rights treaty bodies, because the information contained in such a document would be out of date in a few years' time.

29. Regarding the guidelines concerning periodic reports, he agreed with Mr. Hammarberg that they should be completed by 1997, but believed that the working group set up to deal with the matter should be composed of members who had just been re-elected, since it was they who would have to consider the periodic reports, and not members such as Miss Mason and himself, whose mandate would expire in a year's time. However, he was prepared to collaborate in the working group's activities.

30. Mrs. EUFEMIO considered that, before thinking of establishing guidelines for the preparation of periodic reports, the Committee should complete the guidelines concerning initial reports. In her view, it was not so much a matter of amending those guidelines as of developing them on the basis of the commentaries appearing in Mr. Hammarberg's document, sharing out the task on the basis of the areas of specialization of each member of the Committee. She could not approve the idea that in the general guidelines certain questions should be given prominence and the importance of others minimized, since all the articles of the Convention were interlinked.

31. Mrs. SANTOS PAIS noted that all members of the Committee were agreed that new guidelines concerning the preparation of periodic reports would have to be formulated by 1977. As she saw it, the fact that the mandate of certain members expired at the end of 1995 should not necessarily mean that they ought not to take part in that work. The richness of the Committee derived from the fact that its members had different areas of expertise, and pooled their knowledge and experience. Such exchanges made it easier for them to devise objective guidelines for States.

32. The CHAIRPERSON said that, in her view, members who were opposed to any modification were by so doing refusing to accept that the general guidelines could evolve in any way. She proposed that the Committee should not speak of revising the guidelines, but rather of modifying them with a view to their improvement. In the course of successive sessions, the Committee's procedures and its perception of its mandate were evolving and being improved. The two documents submitted by Mr. Hammarberg and Mr. Astillero's document on indicators should be used as a basis for refining the Committee's working methods and guidelines. What was now needed was for the Committee to take a decision to follow that course.

33. Mr. KOLOSOV thought it was too late to amend the Committee's guidelines, in view of the fact that 154 States parties had already received them. In addition, the guidelines were satisfactory, since reports received hitherto had enabled the Committee to engage in dialogue with the State party, to adopt conclusions and to formulate recommendations. However, the discussion on possible improvements to the guidelines could be useful for the preparation of guidelines regarding periodic reports. He fully agreed that consideration of the question should begin at once, but thought that preparation of the guidelines would take two or three years. He himself was willing to contribute to that work, but believed that the working group should include other experts, in case Miss Mason and himself were not re-elected when their mandate expired. He attached very great importance to the guidelines, since in his view periodic reports were far more important than initial reports, in that they made it possible to gauge the progress achieved in regard to the rights of the child.

34. Mr. HAMMARBERG reminded the Committee that the first periodic reports would fall due in September 1997, and that the guidelines would have to be sent out at least a year earlier, so as to enable States parties to draft their reports. In view of the fact that it would take at least two years to prepare those guidelines, the Committee ought to begin to consider the question by September 1994 at the latest.

35. He believed that the Committee should continue to refine the guidelines concerning initial reports. The question that arose was whether they should be modified, or supplemented by commentaries. He himself considered that the Committee should content itself with refining issues in the course of its dialogue with the reporting State party, so that the State party would not be inundated by documents. That being said, however, the Committee should take a decision quickly, since almost 90 per cent of States parties were currently preparing to draft their reports.

36. Mrs. EUFEMIO said she would like to withdraw from the working group responsible for preparing guidelines concerning the drafting of periodic reports, and to join the group dealing with guidelines for initial reports, because in her view the question of periodic reports could not be tackled until the question of initial reports had been settled. She pointed out that in fact periodic reports constituted a follow-up to a situation presented in an initial report on the basis of a well-established model.

37. The CHAIRPERSON proposed that, in order to avoid sending new guidelines to States which had already received them, any shortcomings which the guidelines might have in certain areas should be made good by means of supplementary commentaries. In view of the fact that in 1997 57 States parties would have to submit their periodic reports, she proposed that the Committee should consider Mr. Hammarberg's document concerning guidelines for initial reports, while starting work on the guidelines for periodic reports. In that connection, the debate on initial reports could in fact prove useful for the preparation of periodic reports. She did not approve the idea of altering the composition of the working group responsible for guidelines concerning periodic reports. While that group could certainly include a larger number of members, every expert would in any case be able to make his or her contribution.

38. Mr. KOLOSOV pointed out that, if the Committee established new guidelines for initial reports, States parties which had already submitted their reports would have followed certain recommendations, whereas others would be applying different ones. In his view, that situation was unacceptable. He proposed that the Committee should adopt commentaries regarding the guidelines concerning initial reports, and should take into account everything that had been said regarding them at the current meeting when preparing the guidelines on periodic reports. When the Committee came to consider periodic reports it could return to any questions it had not be able to deal with in depth when considering initial reports because of shortcomings in the relevant guidelines.

39. Miss MASON pointed out that life was a long learning process, that the world was constantly changing, and that laws were made to be amended. Consequently, she could not see any reason why the guidelines should not be refined, developed or reformulated. She did not think it would be unfair to States which had already submitted their initial report to change the guidelines concerning the preparation of such a report. She noted that the Committee was still in a learning phase, and was improving its procedures session by session. It was normal that it should wish to amplify its guidelines so as to obtain the information it needed. That would avoid the need for asking States parties for further information, as the Committee had had to do in the case of Mexico, which had sent its written replies in a language which was unfamiliar to some Committee members. Those members had been at a disadvantage, and had been unable to ask pertinent questions. The Committee should take a decision at once on the general guidelines concerning initial reports, and then on the guidelines concerning periodic reports.

40. Mgr. BAMBEREN GASTELUMENDI said that, while it was always possible to improve the general guidelines, it was not opportune to do so for the present as far as the form and content of initial reports to be submitted by States parties under article 44, paragraph 1 (a) of the Convention (CRC/C/5) were concerned. It would be more useful for States parties to follow the guidelines more closely. On the other hand, it was of crucial importance to set a deadline for the submission of reports, so that the Committee would have enough time to consider them and to decide beforehand the main issues to be considered further with the representatives of reporting States.

41. Mrs. SANTOS PAIS noted with satisfaction that the Committee had improved its working methods, and stressed the vital role of the pre-sessional working group. In the interests of efficiency, it was essential for that group to be able to meet at least six weeks to two months before the Committee's session, to draw up preliminary lists of issues and send them in advance to States parties so that the latter would have time to submit written replies before the session.

42. Mr. HAMMARBERG noted with interest that members of the Committee appeared to be reaching agreement on methods of work. He proposed that States parties should be sent an explanatory note with the list of issues that could be raised in the course of consideration of reports, which would facilitate

their task. Before even thinking of preparing revised general guidelines, it would be advisable to draw up a supplementary check-list which would be virtually identical for all countries, and to include it in an annex to the general guidelines.

43. Mr. KOLOSOV believed that for the present it was preferable to keep to the general guidelines, and to send them to States parties which had not yet submitted their initial report. In his view, it would be more useful to draft revised general guidelines concerning the preparation of periodic reports which had to be submitted under article 44, paragraph 1 (b) of the Convention.

44. Mrs. SARDENBERG also proposed that the general guidelines should continue to be sent to all States parties, and that, for instance, any comments which might assist countries in drafting their periodic report might be included in an annotated agenda. The supplementary check-list would include only questions which had not been considered in the report, or on which the Committee thought it had not received sufficient information.

45. The CHAIRPERSON proposed that members of the Committee should give further study both to that question and to the working paper entitled "Annotated guidelines with a commentary" in a working group, and should take up the matter again on 19 January, so that an official text could be adopted either at the current session or at the meeting of the pre-sessional working group to be held in February. She then invited members of the Committee to consider other questions relevant to the Committee's methods of work.

46. Mr. HAMMARBERG, on the question of the updating of the list of issues selected by the Committee as possible subjects for study, recalled that at its third session the Committee had prepared a list of documents, reports and other publications relating to subjects of concern to it. That list and the information it contained were very useful to institutions, research centres and NGOs, as well as to UNICEF and notably to the latter's International Child Development Centre based in Florence, a body which wished to undertake research and studies on the rights of the child which were of interest to the Committee.

47. The CHAIRPERSON asked members of the Committee to prepare a revised list of possible subjects for study, and to submit it at the current session. She then invited them to consider the working paper submitted by Mr. Hammarberg on the Committee's working methods.

48. Mr. HAMMARBERG said that the working document entitled "Overview of procedures" which was now before the Committee was intended to give a clear and official account of its working methods. It was based on the practice successfully followed in that regard by the Committee on Economic, Social and Cultural Rights. The first part dealt with the procedure for preparing reports, the second with the examination of reports by the Committee on the Rights of the Child (activities of the pre-sessional working group and presentation of reports), the third with the follow-up given to reports, and the fourth with the procedure to be followed in the case of States whose reports were overdue. The document might be included in a chapter devoted to

the machinery set up within the framework of the Convention on the Rights of the Child in the "Manual on human rights reporting" to be published by the United Nations Department of Public Information.

49. After a short discussion in which Mrs. SARDENBERG, Mr. KOLOSOV, Mrs. EUFEMIO and Mgr. BAMBAREN GASTELUMENDI took part, the CHAIRPERSON asked Mrs. Santos País and Mr. Kolosov to draft an official version of the document, taking into account observations made, and to submit the text to the Committee at a later meeting.

The meeting rose at 6. p.m.